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BellSouth Telecommunications, Inc.
333 Commerce Street
Suite 2101
Nashville, TN 37201-3300

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Legal Department
615 214-6300
fax 615 214-7406

TRA DOCKET ROOM
July 17, 2003

VIA HAND DELIVERY

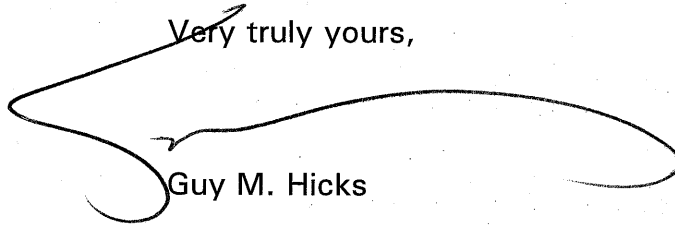
Hon. Deborah Taylor Tate, Chairman
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37238

Re: Delta Phones, Inc.
Docket No. 03-00425

Dear Chairman Tate:

Enclosed please find an original and thirteen copies of BellSouth's Motion for Emergency Interim Relief. A copy of the enclosed has been provided to counsel of record for Delta Phones, Inc.

Very truly yours,



Guy M. Hicks

GMH:ls

Enclosure

**BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE**

In Re: *Interconnection Agreement negotiated by BellSouth Telecommunications, Inc. and Delta Phones, Inc., Pursuant to Section 251, 252 and 271 of the Telecommunications Act of 1996*

Docket No. 03-00425

MOTION FOR EMERGENCY INTERIM RELIEF

BellSouth Telecommunications, Inc. ("BellSouth") files this Motion for Emergency Interim Relief and respectfully shows the Tennessee Regulatory Authority ("TRA or Authority") as follows:

BellSouth has filed its Answer and Counterclaim in the above referenced matter in response to the claims raised by Delta Phones, Inc. ("Delta Phones"). As noted in BellSouth's Answer, Delta Phones has failed to make any payments, whatsoever, to BellSouth during the past 115 days. While Delta Phones wrongly asserts that every penny of the amount billed by BellSouth is in dispute, this is simply not the case. The truth is that BellSouth has provided service to Delta Phones pursuant to its Interconnection Agreement between the companies, and Delta Phones has paid not one penny for that service during the last 115 days. It is obvious that Delta Phones owes BellSouth for some amount for service provided during that time period. Accordingly, BellSouth is entitled to disconnect Delta Phones service for non-payment.

Delta Phones has sought the aid of the Authority in delaying BellSouth from disconnecting its service for non-payment. BellSouth is entitled to such disconnection pursuant to the agreement between the parties, and disconnection is needed in order to protect it against incurring further losses by providing services to Delta Phones without being paid. Currently,

BellSouth plans to disconnect Delta Phone's service after the July 21, 2002 Agenda Conference. In the event the Authority is inclined to request delay of such disconnection during some billing period, while it evaluates this matter on an expedited basis, BellSouth respectfully requests that the Authority require Delta Phones to make some provision - whether through an escrow or in the form of bond to be held by the Authority, for BellSouth's protection as to payment for services provided during the Authority's review of Delta Phones' complaint as well as for payment for services as to which no dispute has been made pursuant to the parties' agreement.

As BellSouth has stated in its Answer, Delta Phones has sought to avoid its financial obligations by raising a series of frivolous disputes and now seeks to continue to obtain service without paying *either for undisputed billing for the service already provided, or for the service going forward*, on the basis of those frivolous disputes. In order to avoid the potential for Delta Phones incurring further debt, for which it is unable to pay or fails to pay, BellSouth respectfully requests that the Authority provide for interim relief to ensure that BellSouth will not be in a worse position due to Delta Phones incurring additional debt during the pendency of this matter.

In order to protect BellSouth, BellSouth believes it would be appropriate for the Authority to require Delta Phones to provide both : (1) a bond in the amount of \$467,519.63 (representing the amount currently owed but never disputed by Delta Phones pursuant to the parties' Agreement) and (2) post separate bonds or pay into escrow \$122,120.00 (representing the average undisputed monthly billing for Delta Phones over the previous 4 months) on the first day of each month during which this matter proceeds.

Good cause exists for the Authority to require this protection before entertaining Delta Phones' complaint. In the first instance, it is BellSouth's understanding that Delta Phones is currently out of compliance with the Authority's own rule requiring all certificated carriers to

post a surety bond. The Authority has cancelled the certification of other carriers in the past for the failure to meet this commitment. The fact that this carrier has failed to do so, raises the legitimate concerns that this reseller, is not financially capable of paying for services that it may consume during the pendency of its complaint.

The TRA has in the past, ordered similar protective measures during the pendency of billing disputes between carriers. See, for example, Docket 00-01151, *In Re: Second Complaint of Discount Communications*. In that docket, the Hearing Officer and the Authority recognized that failure to keep BellSouth protected by timely payments into escrow supported termination of service to Discount. See Hearing Officer's August 22, 2001 *Order Denying Discount's Motion to Continue Service and Approving BellSouth's Proposal for Providing Service to Discount's Customers*. As in that case, some relief protecting BellSouth during this proceeding is warranted. Interim Relief of this type ensures that the Authority can proceed to resolve any issues without forcing parties to continue providing service for which they will never be paid.

For the reasons articulated above, BellSouth respectfully requests that the Authority issue an order requiring Delta Phones, Inc. to submit a bond to the Authority for the protection of BellSouth for the undisputed arrearage and amounts incurred, during any time that BellSouth is required to refrain from terminating service during the pendency of this proceeding.

RESPECTFULLY SUBMITTED, THIS 17th DAY OF July, 2003.


BELLSOUTH TELECOMMUNICATIONS, INC.

Guy M. Hicks
333 Commerce Street
Suite 2101
Nashville, Tennessee 37201
(615) 214-6301

R. Douglas Lackey
J. Phillip Carver
4300 BellSouth Center
675 W. Peachtree Street, N.E.
Atlanta, GA 30375
(404) 335-0710

COUNSEL FOR BELL SOUTH
TELECOMMUNICATIONS, INC.

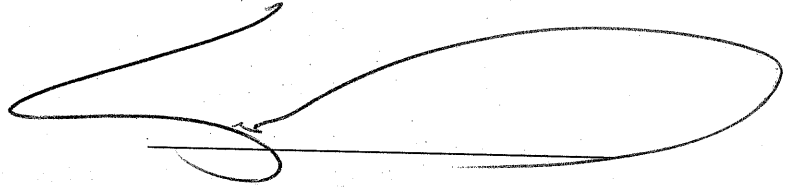
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CERTIFICATE OF SERVICE

I hereby certify that on July 17, 2003, a copy of the foregoing document was served on the parties of record, via method indicated:

- ☐ Hand
- ☐ Mail
- ☒ Facsimile
- ☐ Overnight
- ☐ Electronic

Henry Walker, Esquire
Boult, Cummings, et al.
414 Union Street, #1600
Nashville, TN 37219-8062
(615) 252-2363

A large, stylized handwritten signature in black ink, likely belonging to Henry Walker, Esquire. The signature is fluid and cursive, with a prominent loop at the end.